

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMEL PURNELL,

Plaintiff,

-against-

CAPT. WILLIAMS, ET AL.,

Defendants.

22-cv-5956 (JGK)

ORDER OF SERVICE

JOHN G. KOELTL, United States District Judge:

The plaintiff, who is currently incarcerated at Auburn Correctional Facility, brings this pro se action under 42 U.S.C. § 1983. He asserts claims arising from the alleged use of excessive force against him at the Anna M. Cross Center ("AMKC"). By order dated July 25, 2022, the Court granted the plaintiff's request to proceed without prepayment of fees, that is, in forma pauperis ("IFP").

DISCUSSION

A. John Doe Defendants

The plaintiff's complaint, which was signed on June 8, 2022, named as defendants Captain Williams and six "John Doe" Correction Officers.¹ By order dated July 29, 2022, the Court directed the New York City Law Department, under Valentin v. Dinkins, 121 F.3d 72, 76

¹ The complaint was also construed as naming the New York City Department of Correction (DOC) as a defendant, and the Court directed that the City of New York be substituted for the DOC. See ECF 6.

(2d Cir. 1997), to identify the true names of the John Doe defendants and provide this information to the plaintiff and the Court.² See ECF 6. On September 22, 2022, the New York City Law Department requested a 60-day extension of time to respond to the Valentin order. See ECF 10. By letter dated November 25, 2022, the New York City Law Department responded to the Valentin order by: (1) identifying Captain Williams as Captain Clive Williams, Shield #1836; and (2) supplying the names of members of the "probe team" involved in extracting Plaintiff from his cell at AMKC. See ECF No. 16.

In light of the plaintiff's pro se status and clear intention to assert claims against the John Doe defendants, the Court directs the Clerk of Court to amend the caption of this action to substitute the following names for the John Doe Officers: Correction Officer Jamal Evans, Shield #3435; Correction Officer Comoe Mangoua, Shield #19670; Correction Officer George Almonte, Shield #10649; Correction Officer Richard Hilaire, Shield #6912; Correction Officer Adrian Mills, Shield #14470; Correction Officer Alex Holland, Shield #13659; Philip Tancora; Milton Hossen; Nicholas Devecchis; Munihim Iddris. See Fed. R. Civ. P. 21. This amendment is without prejudice to any defenses the City of New York or the individual defendants may wish to assert. In a separate Order, this Court is directing the plaintiff to file an

² In the initial order of service, the Court also directed the New York City Law Department to provide a shield number or other identifying information for Captain Williams if he could not be served without this information.

Amended Complaint detailing the specific allegations against each of the defendants.

B. Waiver of Service

The Clerk of Court is directed to notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that the following defendants waive service of summons: Captain Clive Williams, Shield #1836; Correction Officer Jamal Evans, Shield #3435; Correction Officer Comoe Mangoua, Shield #19670; Correction Officer George Almonte, Shield #10649; Correction Officer Richard Hilaire, Shield #6912; Correction Officer Adrian Mills, Shield #14470; and Correction Officer Alex Holland, Shield #13659.

C. Service through the United States Marshals Service

Because the plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.³ Walker v. Schult, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); see also 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed.

³ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow the plaintiff to effect service on defendants Philip Tancora, Milton Hossen, Nicholas Devecchis, and Munihim Iddris through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

If the complaint is not served within 90 days after the date summonses are issued, the plaintiff should request an extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

The plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Court directs the Clerk of Court to amend the caption of this action to substitute the following names for the John Doe Defendants: Correction Officer Jamal Evans, Shield #3435; Correction Officer Comoe Mangoua, Shield #19670; Correction Officer George Almonte, Shield #10649; Correction Officer Richard Hilaire, Shield #6912; Correction Officer Adrian Mills, Shield #14470; Correction Officer Alex Holland, Shield #13659; Philip Tancora; Milton Hossen; Nicholas Devecchis; Munihim Iddris. See Fed. R. Civ. P. 21.

The Clerk of Court is directed to electronically notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that the following defendants waive service of summons: Captain Clive Williams, Shield #1836; Correction Officer Jamal Evans, Shield #3435; Correction Officer Comoe Mangoua, Shield #19670; Correction Officer George Almonte, Shield #10649; Correction Officer Richard Hilaire, Shield #6912; Correction Officer Adrian Mills, Shield #14470; and Correction Officer Alex Holland, Shield #13659.

The Clerk of Court is further instructed to complete the USM-285 forms for service on defendants Philip Tancora; Milton Hossen; Nicholas Devecchis; Munihim Iddris and deliver to the U.S. Marshals Service all documents necessary to effect service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in

forma pauperis status is denied for the purpose of an appeal. Cf.
Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that
an appellant demonstrates good faith when he seeks review of a
nonfrivolous issue).

SO ORDERED.

Dated: December 13, 2023
New York, New York

A handwritten signature in dark ink, appearing to read "John G. Koeltl", is written over a horizontal line.

JOHN G. KOELTL
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

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